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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,736	06/19/2001	Wilbur G. Catabay	00-654	5658

24319 7590 02/21/2003

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EXAMINER

KILDAY, LISA A

ART UNIT PAPER NUMBER

2829

DATE MAILED: 02/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/884,736

Applicant(s)

CATABAY ET AL.

Examiner

Lisa A Kilday

Art Unit

2829

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 February 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1Claim(s) withdrawn from consideration: 2-7, 11, 13-21

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


ERNEST KARLSEN
PRIMARY EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's representative admits that an integrated circuit and dual damascene structure have no patentable distinction except for their names. Applicant should direct their traversal of the restriction to Petitions. See MPEP 818.03(c).

Applicant's arguments for the 103(a) rejection of claim 1 are not persuasive. First, applicant argues that a low k opening will cause damage to the bonds between the organic materials and the silicon atoms, resulting in oxidation (pg. 5, lines 5-10). This argument is not persuasive because "low k openings" are not found in the claims. Applicant's point is moot because this limitation is not in claim 1. Second, applicant asserts that the damaged silicon atoms are capable of bonding with hydroxyl atoms, resulting in the absorption of undesired moisture on and in the low k insulation material (pg. 5 lines 10-13). Applicant's argument is not persuasive for two reasons. The first reason is that applicant uses "comprisng" language in claim 1. Therefore, applicant's method does not preclude the use of low k material in the opening during the process. Applicant's representative's assertion that the claims of Wang will result in undesired moisture on and in the low k insulation material is merely a conclusory observation by the applicant's representative and not supported by evidence. See MPEP 2145. The second reason is that the language of the character of the surface of the opening is not stated in the claim.



ERNEST KARLSEN
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